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3 **IN THE DISTRICT COURT OF THE VIRGIN ISLANDS**  
4 **DIVISION OF ST. THOMAS AND ST. JOHN**

5 WILLIAM LONNIE MOFFITT and MARY  
6 JOYCE MOFFITT,

7 Plaintiffs,

8 v.

9 VARLACK VENTURES, INC., HOLLIS B  
10 CORP, J QUEST CORP, T.K. SAILING  
11 CORP dba NEW HORIZONS CHARTERS,

12 Defendants.  
13

**CIVIL CASE NO. 3:15-cv-00082**  
**COMPLAINT FOR DAMAGES**  
**JURY TRIAL DEMANDED**

14 Plaintiffs, WILLIAM LONNIE MOFFITT and MARY JOYCE MOFFITT, hereby alleges  
15 as follows:

16 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

17 **I.**

18 **JURISDICTION**

19 1. Plaintiffs, WILLIAM LONNIE MOFFITT and MARY JOYCE MOFFITT, are  
20 residents of the City of Friendship, State of Texas.

21 2. Plaintiffs are informed and believe, and based thereupon allege, that Defendant,  
22 VARLACK VENTURES, INC., is a Virgin Islands corporation and is doing business within the  
23 Territory of the United States Virgin Islands, and, at all times herein mentioned, was the owner,  
24 operator and entity responsible for the ownership, operation and control of the M/V Capital Venture,  
25 a 96 ton, 105 foot passenger ferry, ship number 643732.

26 3. Plaintiffs are informed and believe, and based thereupon allege, that Defendants,  
27 HOLLIS B CORP, J QUEST CORP, T.K. SAILING CORP dba NEW HORIZONS CHARTERS,  
28 are Virgin Islands corporations and are doing business within the Territory of the United States

1 Virgin Islands, and, at all times herein mentioned, were the owners, operator and others responsible  
2 for the ownership, operation and control of the M/Y New Horizons, a 43 ton, 65 foot sailing vessel,  
3 ship number 953206.

4 4. The citizenship of Plaintiffs and Defendants is diverse and the amount in controversy,  
5 exclusive of interests and costs, exceeds the sum of Seventy-Five Thousand Dollars (\$75,000.00).  
6 Therefore, this Court has jurisdiction over the matter pursuant to 28. U.S.C. § 1332.

7 **II.**

8 **FIRST CAUSE OF ACTION**  
9 **(WILLIAM LONNIE MOFFITT and MARY JOYCE MOFFITT vs. VARLACK**  
10 **VENTURES, INC.)**

11 5. Plaintiffs reallege paragraphs 1 through 4, and incorporates the same by reference as  
12 though fully set forth herein.

13 6. Plaintiffs are informed and believe, and based thereupon alleges, that Defendants,  
14 VARLACK VENTURES, INC., at all times relevant hereto, are, and were, the owners and operators  
15 of the M/V Capital Venture, a passenger ferry operating between the St. Thomas and St. John, in  
16 the Territorial waters of the United States Virgin Islands.

17 7. On or about October 22, 2014, at or near 6:00 p.m., Plaintiffs, WILLIAM LONNIE  
18 MOFFITT and MARY JOYCE MOFFITT were passengers on the M/Y New Horizons, which had  
19 left for a sunset cruise from Sapphire Beach Marina on St. Thomas, Virgin Islands and was operating  
20 in Pillsbury Sound. The vessel M/Y New Horizons was being operated under power and the sails  
21 were not raised.

22 8. At that time and place, the M/V Capital Venture had departed from Red Hook and  
23 was traveling to St. John. At approximately 0.5 NM East of the Red Hook Channel Entrance Buoys  
24 the M/V Capital Venture collided with the port stern of the M/Y New Horizons. Plaintiffs WILLIAM  
25 LONNIE MOFFITT and MARY JOYCE MOFFITT were seated on the port stern side of the M/Y  
26 New Horizons and sustained injuries and damages during the collision.

27 9. Plaintiffs are informed and believe, and based thereupon allege, that at all times herein  
28 mentioned, Defendant, VARLACK VENTURES, INC., as the owner and operator of the M/V  
Capital Venture was the employer of the captain/master of the vessel and responsible for the

1 operation and control of the vessel while under way.

2 10. Plaintiffs are informed and believe, and based thereupon allege, that at all times herein  
3 mentioned, Defendants, VARLACK VENTURES, INC., were required to operate their vessel in  
4 accordance with the standard of care and in compliance with the navigation rules and regulations as  
5 promulgated by the U.S. Department of Transportation, United States Coast Guard, which include,  
6 but are not limited to, the following provisions:

7 Rule 6: Safe speed. Every vessel shall at all times proceed at a safe speed so that she can take  
8 proper and effective action to avoid collision and be stopped within a distance appropriate  
9 to the prevailing circumstances and conditions.

10 Rule 7: Risk of Collision. Every vessel shall use all available means appropriate to the  
11 prevailing circumstances and condition to determine if risk of collision exists. If there is any  
12 doubt such risk shall be deemed to exist.

13 Rule 8: Action to Avoid Collision. Any action taken to avoid collision shall, if the  
14 circumstances of the case admit, be positive, made in ample time and with due regard to the  
15 observance of good seamanship.

16 Rule 13: Overtaking. [A]ny vessel overtaking any other shall keep out of the way of the  
17 vessel being overtaken. A vessel shall be deemed to be overtaking when coming up with her  
18 vessel from a direction more than 22.5 degrees abaft her beam, that is, in such a position with  
19 reference to the vessel she is overtaking, that at night she would be able to see only the stern  
20 lights of the vessel but neither of her sidelights.

21 Rule 16: Action by Give-way Vessel. Every vessel which is directed to keep out of the way  
22 of another vessel shall, so far as possible, take early and substantial action to keep well clear.

23 Rule 18: Responsibilities Between Vessels. Except where Rules 9, 10 and 13 otherwise  
24 require. . . (iv) a sailing vessel.

25 11. Plaintiffs are informed and believe, and based thereupon allege, that the  
26 captain/master of the M/V Capital Venture was negligent and careless in the operation of the M/V  
27 Capital Venture by violating one or more of the above referenced Navigation rules and otherwise  
28 conducting himself in a manner below the standard of care of a master operating a passenger ferry.

1           12.     Plaintiffs are informed and believe, and based thereupon allege, that a direct and  
2 proximate result of the negligence and careless of Defendant, VARLACK VENTURES, INC., by  
3 and through the captain/master of the M/V Capital Venture, Plaintiffs sustained injuries and  
4 damages, as herein alleged.

5           13.     As a direct and proximate result of the negligence of Defendant, as hereinabove  
6 alleged, Plaintiffs, WILLIAM LONNIE MOFFITT and MARY JOYCE MOFFITT, , were hurt and  
7 injured in their health, strength and activity, in all parts of their body, and sustained shock and injury  
8 to their nervous system and person, all of which injuries have caused and continue to cause Plaintiffs  
9 great mental, physical and nervous anxiety, and pain and suffering. Plaintiffs, WILLIAM LONNIE  
10 MOFFITT and MARY JOYCE MOFFITT, are informed and believe, and thereon allege, that these  
11 injuries will result in some permanent disability to Plaintiffs, all to their general damage, in an  
12 amount to be proven at time of trial.

13           14.     As a further direct and proximate result of the negligence of Defendant as hereinabove  
14 alleged, Plaintiff, WILLIAM LONNIE MOFFITT and MARY JOYCE MOFFITT, were required to,  
15 and did, employ physicians, surgeons and therapists to treat and care for them, and did sustain  
16 expenses for such medical treatment and care, hospitalization, medicine, and for other and further  
17 medical and incidental care, for which Plaintiffs have incurred liability in an amount as yet  
18 unascertained. Plaintiffs, WILLIAM LONNIE MOFFITT and MARY JOYCE MOFFITT, pray  
19 leave of Court to amend and/or supplement this Complaint to insert the actual and reasonable value  
20 of all medical and incidental expenses when same have been ascertained, or to prove same at time  
21 of trial.

22           15.     Plaintiffs, WILLIAM LONNIE MOFFITT and MARY JOYCE MOFFITT, are  
23 informed and believe, and based thereupon allege, that as a further direct and proximate result of the  
24 negligence of Defendant, as hereinabove alleged, they will necessarily require additional medical  
25 care, hospitalization, medicines, and other and further medical attention in the future and will incur  
26 liability therefrom. Plaintiffs, WILLIAM LONNIE MOFFITT and MARY JOYCE MOFFITT, pray  
27 leave of Court to amend and/or supplement this Complaint to insert the actual and reasonable value  
28 of all such additional medical and incidental expenses when same have been ascertained, or to prove

1 same at time of trial.

2 16. As a further direct and proximate result of the negligence of Defendant, as  
3 hereinabove alleged, Plaintiffs, WILLIAM LONNIE MOFFITT and MARY JOYCE MOFFITT,  
4 became incapacitated and was prevented from following their usual occupation for an undetermined  
5 period of time; and as a result thereof, Plaintiffs suffered a loss of earnings and earning capacity and  
6 ability and other financial losses in an undetermined amount. Plaintiffs, WILLIAM LONNIE  
7 MOFFITT and MARY JOYCE MOFFITT, pray leave of Court to amend and/or supplement this  
8 Complaint to include the exact amount of said loss of earnings and earning capacity and ability when  
9 ascertained, or to prove same at time of trial.

### 10 III.

#### 11 SECOND CAUSE OF ACTION

12 **WILLIAM LONNIE MOFFITT, MARY JOYCE MOFFITT vs. HOLLIS B CORP, et al.)**

13 17. Plaintiffs reallege paragraphs 1 through 16, and incorporates the same by reference  
14 as a part hereof as though fully set forth herein.

15 18. Plaintiffs are informed and believe, and based thereupon allege, that at all times herein  
16 mentioned, Defendants, HOLLIS B CORP, J QUEST CORP, T.K. SAILING CORP dba NEW  
17 HORIZONS CHARTERS, as the owner and operator of the M/Y New Horizons were the employers  
18 of the captain/master of the vessel and responsible for the operation and control of the vessel while  
19 under way.

20 19. Plaintiffs are informed and believe, and based thereupon allege, that at all times herein  
21 mentioned, Defendants, HOLLIS B CORP, J QUEST CORP, T.K. SAILING CORP dba NEW  
22 HORIZONS CHARTERS, were required to operate their vessel in accordance with the standard of  
23 care and in compliance with the navigation rules and regulations as promulgated by the U.S.  
24 Department of Transportation, United States Coast Guard, which include, but are not limited to, the  
25 following provisions:

26 Rule 6:Safe speed. Every vessel shall at all times proceed at a safe speed so that she can take  
27 proper and effective action to avoid collision and be stopped within a distance appropriate  
28 to the prevailing circumstances and conditions.

1 Rule 7: Risk of Collision. Every vessel shall use all available means appropriate to the  
2 prevailing circumstances and condition to determine if risk of collision exists. If there is any  
3 doubt such risk shall be deemed to exist.

4 Rule 8: Action to Avoid Collision. Any action taken to avoid collision shall, if the  
5 circumstances of the case admit, be positive, made in ample time and with due regard to the  
6 observance of good seamanship.

7 Rule 17: Action by Stand-on Vessel.

8 (a) Where one of two vessel is to keep out of the way of the other shall keep her course and  
9 speed. The later vessel may however take action to avoid collision by her maneuver alone,  
10 as soon as it becomes apparent to her that the vessel required to keep out of the way is not  
11 taking the appropriate action in compliance with these Rules.

12 (b) When, from any cause, the vessel required to keep her course and speed finds herself fo  
13 close that a collision cannot be avoided by the action of the give-way vessel alone, she shall  
14 take such action as will best aid to avoid collision.

15 20. Plaintiffs are informed and believe, and based thereupon allege, that the  
16 captain/master of the M/Y New Horizons was negligent and careless in the operation of the M/Y  
17 New Horizons by violating one or more of the above referenced Navigation rules and otherwise  
18 conducting himself in a manner below the standard of care of a master operating a sailing vessel  
19 under power.

20 21. Plaintiffs are informed and believe, and based thereupon allege, that a direct and  
21 proximate result of the negligence and careless of Defendants, HOLLIS B CORP, J QUEST CORP,  
22 T.K. SAILING CORP dba NEW HORIZONS CHARTERS, by and through the captain/master of  
23 the M/Y New Horizons, Plaintiffs sustained injuries and damages, as herein alleged.

24 22. As a direct and proximate result of the negligence of Defendants, as hereinabove  
25 alleged, Plaintiffs, WILLIAM LONNIE MOFFITT and MARY JOYCE MOFFITT, , were hurt and  
26 injured in their health, strength and activity, in all parts of their body, and sustained shock and injury  
27 to their nervous system and person, all of which injuries have caused and continue to cause Plaintiffs  
28 great mental, physical and nervous anxiety, and pain and suffering. Plaintiffs, WILLIAM LONNIE

1 MOFFITT and MARY JOYCE MOFFITT, are informed and believe, and thereon allege, that these  
2 injuries will result in some permanent disability to Plaintiffs, all to their general damage, in an  
3 amount to be proven at time of trial.

4 23. As a further direct and proximate result of the negligence of Defendants, as  
5 hereinabove alleged, Plaintiff, WILLIAM LONNIE MOFFITT and MARY JOYCE MOFFITT, were  
6 required to, and did, employ physicians, surgeons and therapists to treat and care for them, and did  
7 sustain expenses for such medical treatment and care, hospitalization, medicine, and for other and  
8 further medical and incidental care, for which Plaintiffs have incurred liability in an amount as yet  
9 unascertained. Plaintiffs, WILLIAM LONNIE MOFFITT and MARY JOYCE MOFFITT, pray  
10 leave of Court to amend and/or supplement this Complaint to insert the actual and reasonable value  
11 of all medical and incidental expenses when same have been ascertained, or to prove same at time  
12 of trial.

13 24. Plaintiffs, WILLIAM LONNIE MOFFITT and MARY JOYCE MOFFITT, are  
14 informed and believe, and based thereupon allege, that as a further direct and proximate result of the  
15 negligence of Defendants, as hereinabove alleged, they will necessarily require additional medical  
16 care, hospitalization, medicines, and other and further medical attention in the future and will incur  
17 liability therefrom. Plaintiffs, WILLIAM LONNIE MOFFITT and MARY JOYCE MOFFITT, pray  
18 leave of Court to amend and/or supplement this Complaint to insert the actual and reasonable value  
19 of all such additional medical and incidental expenses when same have been ascertained, or to prove  
20 same at time of trial.

21 25. As a further direct and proximate result of the negligence of Defendants, as  
22 hereinabove alleged, Plaintiffs, WILLIAM LONNIE MOFFITT and MARY JOYCE MOFFITT,  
23 became incapacitated and was prevented from following their usual occupation for an undetermined  
24 period of time; and as a result thereof, Plaintiffs suffered a loss of earnings and earning capacity and  
25 ability and other financial losses in an undetermined amount. Plaintiffs, WILLIAM LONNIE  
26 MOFFITT and MARY JOYCE MOFFITT, pray leave of Court to amend and/or supplement this  
27 Complaint to include the exact amount of said loss of earnings and earning capacity and ability when  
28 ascertained, or to prove same at time of trial.

- 1 WHEREFORE, Plaintiffs prays judgment against Defendants, and each of the, as follows:
- 2 1. For general damages, all in an amount in excess of \$75,000 and to be proven at the
- 3 time of trial;
- 4 2. For medical and related expenses, past, present and future, all in an amount to be
- 5 proven at the time of trial;
- 6 3. For loss of earnings or earning ability, past, present and future, all in an amount to be
- 7 proven at the time of trial;
- 8 4. For costs of suit incurred herein; and
- 9 5. For such other and further relief as this Court deems just and proper.

10 Dated : October 14, 2016

**LAW OFFICES OF FRIEDBERG & BUNGE**

11 By: s/ THOMAS F. FRIEDBERG, ESQ.  
12 THOMAS F. FRIEDBERG, ESQ. (VI # 1006)  
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21 **DEMAND FOR JURY**

22 Plaintiffs hereby demand a jury trial pursuant to Rule 38, of the Federal Rules of Practice.

23 Dated : October 14, 2016

**LAW OFFICES OF FRIEDBERG & BUNGE**

24 By: s/ THOMAS F. FRIEDBERG, ESQ.  
25 THOMAS F. FRIEDBERG, ESQ. (VI # 1006)  
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